IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Crl.MC.No. 3089 of 2007()

SC.525/2005 of ASSISTANT SESSIONS COURT, THRISSUR

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PETITIONER: ACCUSED NO.2:

NAVISH, S/O.NARAYANAN, CHAKRATH HOUSE,
KARALAM VILLAGE, THRISSUR TALUK.

BY ADV. SRI.ANVER BASHEER

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM REPRESENTED BY SUB INSPECTOR OF POLICE, THRISSUR EAST POLICE STATION.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.3089 Of 2007

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Dated this the 9th day of October, 2007

ORDER

Petitioner is the 2nd accused in a prosecution for offences punishable, inter alia, under Section 435 read with 34 IPC. Altogether there are three accused persons. As against accused No.1 further proceedings are pending. So far as accused No.2 and 3 are concerned, consequent to their non appearance, the case against them has been split up.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was not wilful and was on account of reasons absolutely beyond his control. His sister's child was ill and the child expired subsequently. It was in these circumstances, that the petitioner could not appear before the learned Judge.

3. The petitioner is now willing to surrender before the learned Judge and seek bail but he apprehends that his application for bail may not be considered by the learned Judge,on merits, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Judge

to release him on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Judge and explain to the learned Judge the circumstances under which he could not earlier appear before the learned Judge. The learned Judge must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Judge would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Judge and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Judge must proceed to pass appropriate orders on merits and expeditiously-on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE